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June 15, 2000

Ex Parte

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *In the Matter of Applications of America Online, Inc. and
Time Warner Inc. for Transfer of Control – CS Docket No. 00-30*

Dear Ms. Salas:

On June 13th, Bill Norton, Senior Director – Public Policy, Marc Galonsky, Senior Attorney – Legal, Eric Schwartz, Vice President – Strategy and Business Alliance and the undersigned met with Deborah Lathen, Chief – Cable Services Bureau, Royce Dickens, Deputy Chief – Policy and Rules Division, Andrew Wise, Industry Economist and Carl Kandutsch, Attorney.

Yesterday, Bill Reddersen, Executive Vice President – Strategic Planning, Tom Rawls, General Counsel, BellSouth Entertainment, Bill Norton, Marc Galonsky and the undersigned met with the following:

- Commissioner Harold Furchtgott-Roth and Helgi Walker
- Deborah Klein - Office of Commissioner Tristani
- Commissioner Susan Ness and David Goodfriend
- Karen Onyeije - Office of the Chairman
- Kyle Dixon and Zachary Stewart - Office of Commissioner Powell

With specific reference to the Cable Bureau meeting, we continued the discussion begun last week about the pending merger. In each of the meetings with commissioners and commissioners' legal advisors, we focused on three issues: the forces and effects of the converging digital marketplace; the four distinct layers in the provision of integrated digital

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media services and their particular application to AOL and Time Warner; and, the need to consider the imposition of "deal-specific" safeguards on the merging companies with regard to (i) access to content; (ii) instant messaging interconnection and (iii) market-based network access.

Attached is a copy of the document that was distributed at the meetings.

Please direct any questions regarding this matter to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol B. Rosen", with a long horizontal flourish extending to the right. A diagonal line is drawn over the signature from the top left.

Attachment


cc: Commissioner Susan Ness (w/o attachment)
Commissioner Harold Furchtgott-Roth (w/o attachment)
Deborah Lathen (w/o attachment)
Kyle Dixon (w/o attachment)
David Goodfriend (w/o attachment)
Deborah Klein (w/o attachment)
Karen Onyeije (w/o attachment)
Helgi Walker (w/o attachment)
Royce Dickens (w/o attachment)
Carl Kandutsch (w/o attachment)
Andrew Wise (w/o attachment)
Zachary Stewart (w/o attachment)

AOL - TimeWarner Discussion Package

June 14, 2000

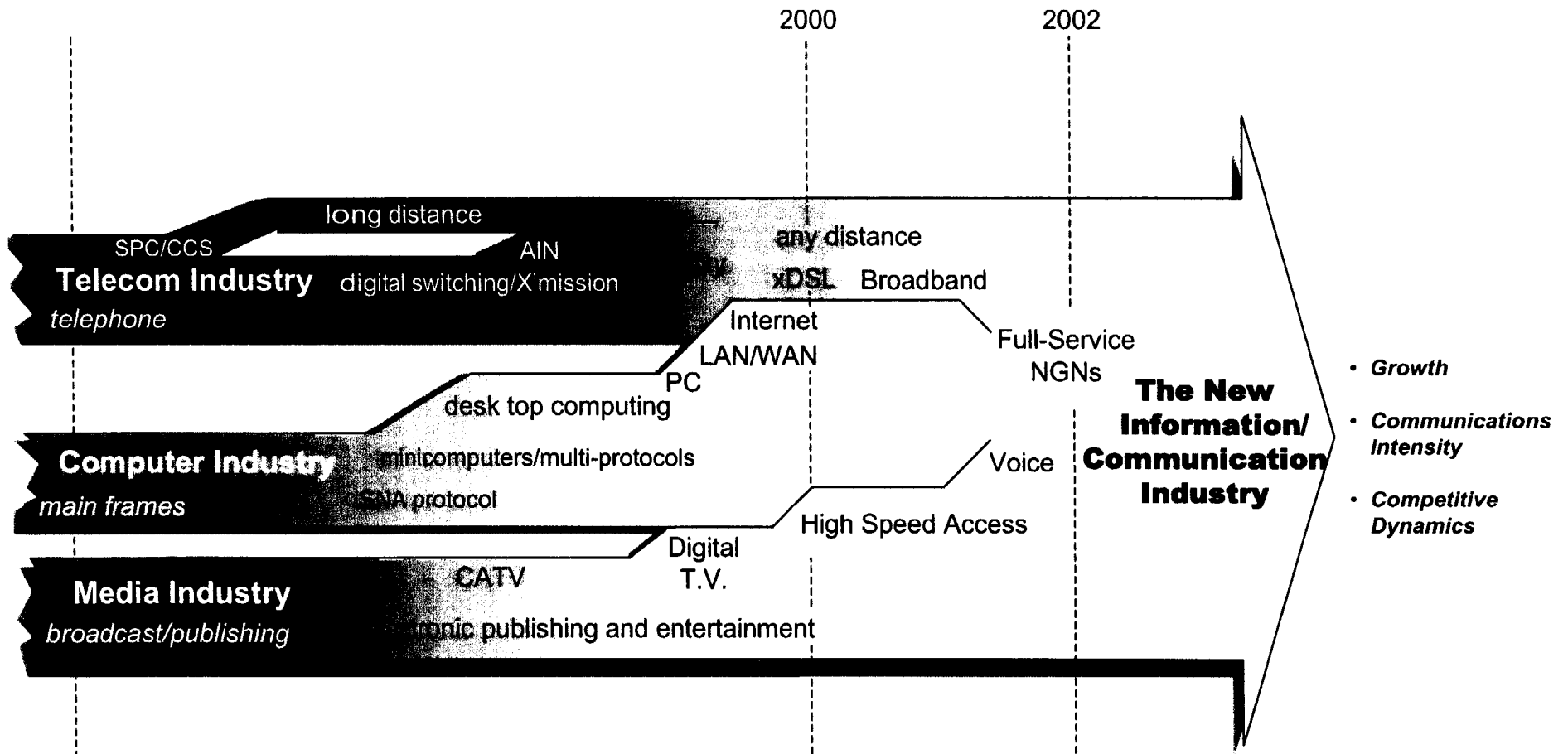
DIGITAL CONVERGENCE IS CAUSING A FUNDAMENTAL RESTRUCTURING OF MULTIPLE, HISTORICALLY INDEPENDENT INDUSTRIES.

Digital Convergence

- 
- *A Common broadband digital architecture,...*
 - *Employing a common protocol,...*
 - *Comprising multiple access methods,...*
 - *To more cost-effectively support virtually any voice, data, image or video application*

- 
- ***New Industry Definitions***
 - ***Significant Consolidation***
 - ***New Customer Services***

DIGITAL SIGNAL PROCESSING, STORAGE AND TRANSMISSION ARE NOW CREATING THE OFTEN REFERRED TO MEDIA CONVERGENCE.



DIGITAL CONVERGENCE AND ITS EFFECTS ARE INEVITABLE. THE QUESTIONS SURROUND HOW BUSINESSES AND REGULATION DEAL WITH IT.

Driving Forces

- *Growth:*
- *Technology:*
- *Productivity:*
- *Consolidation:*
- *Public Policy:*



Effects

Convergent Networks are an essential centerpiece of the digital economy












Technical forces can now facilitate both growth and competition

Economic growth, in general, turn upon the continuing gains occurring in and around the Internet, e-biz, productivity, etc.

4-6 National/Global Mega-Carriers, and a host of technological insurgent Niche players, are emerging naturally.

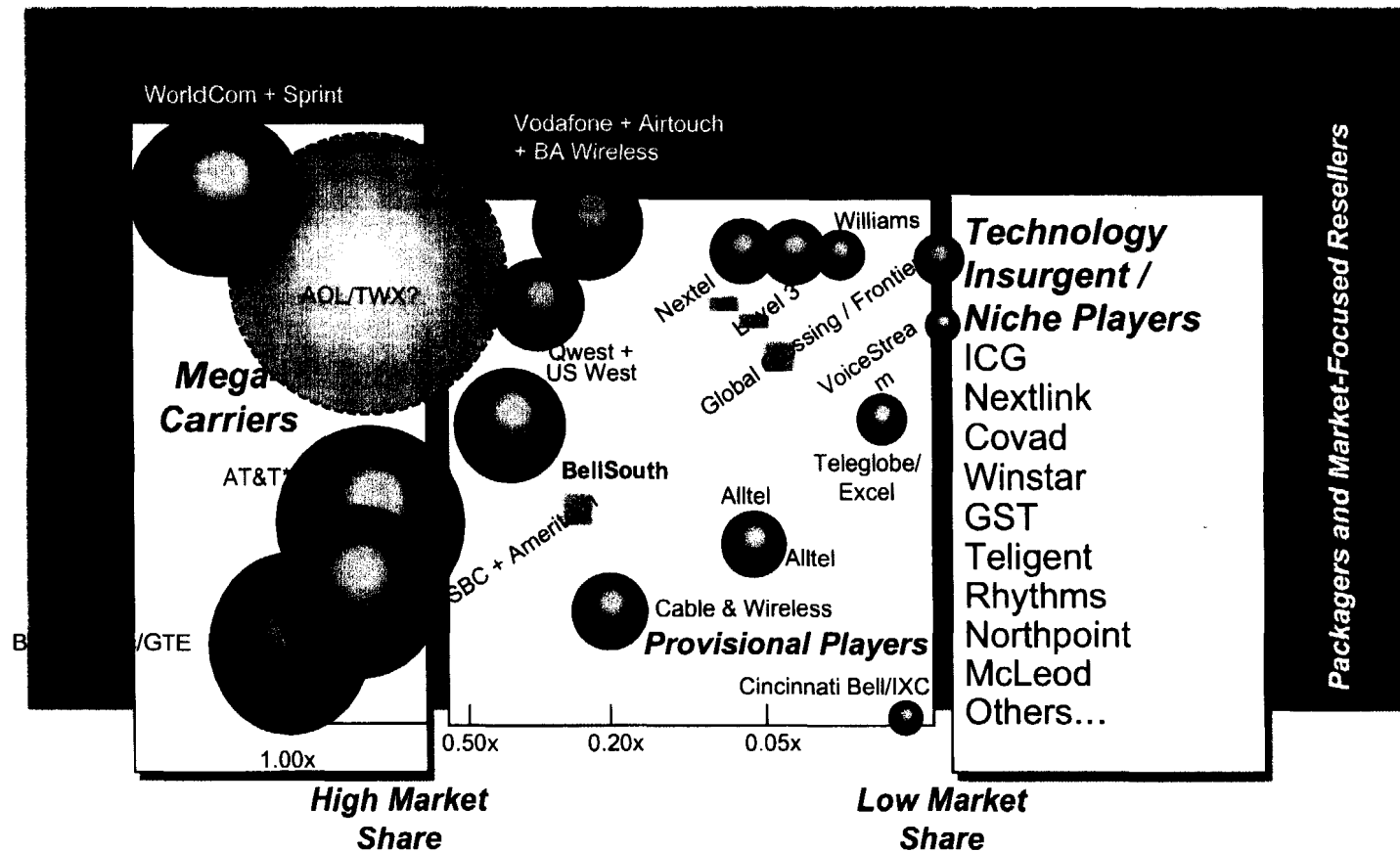
Convergence is inevitable. Current legal/regulatory frameworks do not coincide. New standards must be developed and, in the interim, deal-specific safeguards should be imposed.

CONSOLIDATION IS REAL. LEADING INDUSTRY PLAYERS HAVE INVESTED OR MERGED INVOLVING OVER HALF A TRILLION DOLLARS MARKET VALUE

Player	Convergence Strategy	Acquisition/Partnership	Investment
	Aggressively acquiring last mile and bundling them in a vertically integrated fashion. Has telephony access to 67% of cable HHs and seeks to deploy fixed wireless for the rest	 	\$62B in acquisitions \$2.5B in TCI upgrade
	Aggressively expanding local access through the acquisition of USWest and connecting high- end residential and business customers to its state-of-the-art IP backbone with DSL		\$49
	Bundling television, telephone and internet services into one bundle that will be integrated around AOL service		\$166B
	To offer complete bundle of high-growth communications services nationwide, Bell Atlantic made significant investments in LD, enhanced data, and IP-based products through purchase of GTE		\$53B
	Planning to merge with Sprint who already invested \$1.2bn in fixed wireless properties and has a national PCS network. In addition investing in MMDS licenses		\$129B

DIGITAL CONVERGENCE, COUPLED WITH STRATEGIC GROWTH DYNAMICS, IS RAPIDLY CONVERTING THE TELECOM LANDSCAPE INTO A 4-6 MEGA PLAYER AFFAIR

ILLUSTRATIVE



*AT&T includes revenue and market cap for TCI and MediaOne

**Bell Atlantic / GTE wireless revenue have been moved to the Vodafone bubble

**WHILE CONSOLIDATION AT SOME LEVELS WILL CONTINUE, COMPETITION
NOT AFFILIATIONS/ALLIANCES BETWEEN "MEGA" PLAYERS IS ESSENTIAL**

- **Any joint ownership of Time Warner Entertainment, Time Warner Cable and Roadrunner by AOL/TW and AT&T/TCI/MediaOne must be eliminated.**
- **Any significant business arrangement between these same parties, for example, one in which AT&T provides to AOL access to its customers on a preferential basis for ISP services in exchange for AT&T access, for telephony purposes, to the cable customers of Time Warner, must be prohibited.**

THERE ARE FOUR DISTINCT LAYERS IN THE PROVISION OF INTEGRATED DIGITAL MEDIA SERVICES THAT MUST BE REVIEWED WHEN ASSESSING ANY MEGA MERGER BUT ESPECIALLY THE VERTICAL INTEGRATION OF TWO DOMINANT PLAYERS LIKE AOL/TW

They apply specifically to AOL/TW as follows:

<u>Layer</u>	<u>Name</u>	<u>Examples</u>
4	Content	TV Programming, Movies, Magazines, Music, etc.
3	Aggregation of Content Applications	Portals, e.g. AOL, Yahoo, etc Messaging/Chat, e.g. ,AOL Instant Messaging, ICQ, AOL Chatrooms, Video On Demand
2	Internet Access	AOL, @Home, TW Roadrunner
1	Physical Infrastructure	Time Warner Cable, AT&T, Telco...

Content
Access

Messaging
Access

Network
Access

THE AOL/TW MERGER REQUIRES CLOSE REVIEW AT SEVERAL LAYERS ON ITS OWN MERITS AND THEN IT MUST ALSO BE REVIEWED IN TERMS OF ANY POTENTIAL RELATIONSHIP TO AT&T/MEDIAONE.

- **Open Access to Content**
- **Clear Instant Messaging Interconnection**
 - **Market Based Access to AOL Environment**
- **Market Based Network Access**

• CONCLUSIONS

- AOL/Time Warner might well be approved, but will require multiple deal-specific safeguards
- Market based content and network access safeguards must be clearly and absolutely dealt with in the AOL/Time Warner case given the magnitude of combined retail market control and the significance of their vertical content ownership.
- Current and future linkages between AT&T/MediaOne and AOL/Time Warner must be totally prohibited.